

## § 842.62

legally entitled to do so under applicable local law, for an individual's death.

(d) Authorized agents (including the claimant's attorney) must show their title or legal capacity and present evidence of authority to present the claim.

### **§ 842.62 Who are proper claimants.**

Claimants include inhabitants of a foreign country who are:

(a) Foreign nationals.

(b) US nationals, unless they reside there primarily because they are:

(1) Employed directly by the United States.

(2) Employed by a US civilian contractor to further performance of a contract with the United States.

(3) Sponsored by or accompanying someone employed as described in § 842.62(b) (1) or (2) of this part.

(c) US corporations with a place of business in the country in which the claim arose.

(d) Foreign governments and their political subdivisions, including a municipal and prefectural government.

(e) Foreign companies and business entities.

### **§ 842.63 Who are not proper claimants.**

Persons who are not proper claimants include:

(a) Insurers and other subrogees.

(b) Dependents accompanying US military and US national civilian employees.

(c) Foreign military personnel suffering property damage, personal injury, or death from a joint military mission with the United States or from conduct of a US military member or employee acting in the scope of employment unless an international agreement specifically provides for recovery.

(d) Civilian employees of the United States, including local inhabitants, injured in the scope of their employment.

(e) National governments and their political subdivisions engaging in war or armed conflict with the United States or its allies.

(f) A national or nationally controlled corporation of a country engaging in war or armed conflict with the United States or its allies, unless the FCC or local military commander de-

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termines the claimant is friendly with the United States.

### **§ 842.64 Payment criteria.**

The following criteria is considered before determining liability.

(a) The incident causing the damage or injury must occur outside the United States. It must be caused by noncombatant activities of the US Armed Forces or by civilian employees or military members of the Armed Forces.

(b) Negligence is not a prerequisite.

(c) Scope of employment is considered in the following situations.

(1) It is a prerequisite to US responsibility if the employee causing the damage or injury is a local inhabitant, a prisoner of war, or an interned enemy alien. These persons are "employees" within the meaning of the Foreign Claims Act (FCA) only when in the service of the United States. Ordinarily, a slight deviation as to time or place does not constitute a departure from the scope of employment. The purpose of the activity and whether it furthers the general interest of the United States is considered. If the claim arose from the operation or use of a US Armed Forces vehicle or other equipment by such a person, pay it provided local law imposes liability on the owner of the vehicle or other equipment in the circumstances involved.

(2) It is immaterial when the claim arises from the acts or omissions of any US Armed Forces member or employee not listed in § 842.64(c)(1) of this part. The Act imposes responsibility on the United States when it places a US citizen or non-US citizen employee in a position to cause the injury or damage. If the cause is a criminal act clearly outside the scope of employment, ordinarily pay the claim and consider disciplinary action against the offender.

### **§ 842.65 Claims not payable.**

A claim is not payable when it:

(a) Has been paid or denied by a competent tribunal under the North Atlantic Treaty Organization (NATO), Status of Forces Agreement (SOFA), or any similar SOFA or treaty.

(b) Is purely contractual in nature.